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IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1394 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 01/09/2004 in W.V.M.P. No.2921 of 2003 in WPMP No. 20035 of 2003 in WP No. 16176 OF 2003 on the file of the High Court.)

Between:

Singh Mahanthi Bhujanga Rao, S/o.S.Veeraswamy, Prop.
M/s. Sree Devi Slabs Company, R/o.Vijayawada, Krishna Dist.

..... APPELLANT

AND

Vijayawada Municipal Corporation, rep.by its Commissioner, Vijayawada.

.....RESPONDENT

Counsel for the Appellant: Mr.N.GURU GOPAL

Counsel for the Respondent: Mr.T.S.VENKATARAMANA

The Court made the following :

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ORAL JUDGMENT:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

On 1.8.2003, the appellant filed Writ Petition for declaring the action of the respondent in demolishing the office shops situated in N.T.S. 618, Purnandampet, Vijayawada, situated at left bank of canal between M.point 1/0 to 1/1 and asking the petitioner to remove his stocks from the land, and, as a consequential relief, he prayed that respondent be directed to pay adequate compensation for reconstruction of the shops, and, not to interfere with their possession. Earlier, interim order was operating in favour of the petitioner-appellant, which, on an application moved by the respondent, was vacated by the learned Single Judge, by the order impugned in the present Appeal. Learned Single Judge concluded that after filing of Writ Petition and obtaining interim order, appellant had constructed shops and despite filing of vacate application, appellant had not bothered to file affidavit to deny the averments made in the affidavit filed in support of the vacate application. Learned Single Judge also considered the balance of convenience and proceeded to vacate the interim order. Challenge is to the said order.

Writ Petition is still pending. When Appeal is taken up today, learned counsel for the appellant states that respondent has since removed all material pertaining to the petitioner and has been deprived of the possession. That being the situation as of today, it will not be appropriate for us, at this stage, to interfere with the order impugned in the Writ Appeal, and, we proceed to dispose of the Appeal with direction that action taken by respondents during the pendency of the Writ Petition will be subject to the result of the Writ Petition, and, in case, ultimately, appellant would succeed in the Writ Petition, appropriate orders will be passed by the learned Single Judge. Learned counsel for the appellant submits that whatever stocks have been removed and taken away by the respondent after the impugned order was passed by the learned Single Judge may be ordered to be returned to him. Learned counsel for the respondent states that on the appellant approaching the respondent, the articles will be returned to the appellant.

The Writ Appeal, therefore, stands disposed of. No costs.

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DEVINDER GUPTA, C.J.

14.09.2004.

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C.V.RAMULU, J.

VR.

To

1. The Commissioner, Vijayawada Municipal Corporation, Vijayawada.

2. Two CD copies.